

## **Commission Meeting Minutes February 25, 2015**

Chairman Brown called the meeting to order at 2:05 PM. He then acknowledged the other Commissioners present: Commissioners Kate Fitzpatrick, Elizabeth Fontaine, John Langan, James Machado, and Gerald McDonough. Commissioner Robert McCarthy was not in attendance.

Chairman Brown announced that the Commission meeting is being tape recorded which will be noted in the minutes, that a stenographer is taking notes, and asked that everyone state their names prior to speaking.

PERAC Staff Present: Executive Director Joseph Connarton, Deputy Executive Director Joseph Martin, Deputy Director/General Counsel John Parsons, Deputy General Counsel/Managing Attorney Judith Corrigan, Senior Associate General Counsel Ken Hill, Associate General Counsel Patrick Charles, Compliance Officer Thomas O'Donnell, Compliance Counsel Derek Moitoso, Compliance Analyst Cheryl Johnson, Deputy Chief Auditor James Tivnan, and Director of Administrative Services Caroline Garcia.

Ms. Garcia announced the guests in attendance: Nick Favorito from the State Retirement Board, Sean Neilon from the Massachusetts Teachers' Retirement Board, Tom Gibson from the Belmont and Middlesex County Retirement Boards, Patrick Brock from the Hampshire County Retirement Board, Timothy Smyth and Padraic Lydon from the Boston Retirement Board, Katie McCue from the Massachusetts Municipal Association, George Grimes who is retired from the Malden Police Department, Margaret MacDonald and Robert DiSalvatore from the Malden Police Department, Michael Sacco representing the Malden Retirement Board, and Carol Kusinitz from Doris Wong Associates.

Commissioner Fitzpatrick made a motion to adopt the minutes of the January 22, 2015 meeting as presented. Commissioner Machado seconded the motion and the minutes were adopted.

### **Legal Update**

Ms. Corrigan spoke about the on-going matter with the Malden Retirement Board (MRB). The Legal Unit prepared a document for the Commissioners to review which was handed out. There are four possible actions which the Commission has available to them from the most dramatic to the least dramatic. Ms. Corrigan reviewed the following four scenarios in depth:

1. Section 24 Enforcement Authority,
2. Temporary Order to protect the systems,
3. Motion to Expedite the matter of Gomes v. Plymouth Retirement Board, CR-14-127,
4. Motion to expedite the matter of Grimes V. Malden Retirement Board, CR-15-5).

Ms. Corrigan stated that although there are four options, options 3 and 4 go together. The Legal Unit is recommending option 3 and 4. Both cases reside at DALA, and could take time to resolve. In both cases, the retirement boards in question are represented by Attorney Michael Sacco.

Mr. Sacco was present and told the Commission that in the Gomes case, the Plymouth Retirement Board believes the service should be awarded without payment. In the Grimes case, the MRB does not believe such crediting of service is authorized unless a person actually worked, as opposed to being on their respective list.

Further discussion ensued regarding the problem with waiting for the cases to be heard, the ability of a retiree to go back and receive their creditable service after retirement, and an individual's decision regarding when to retire.

Mr. Michael Sacco discussed the board's decision on both cases and reported that the MRB does not want to credit individuals only to have to recoup the money if the final decision does not provide for such service. Mr. Sacco indicated that there may be further appeals in both cases.

Commissioner McDonough's concern along with others is waiting for these decisions at DALA and possibly further. What other mechanisms does PERAC have to expedite these cases? Ms. Corrigan stated that PERAC needs the Attorney General's permission to argue cases on our own in Court.

Commissioner McDonough made a motion to adopt the recommendation of PERAC's Legal Unit as to options 3 & 4. Commissioner Langan seconded the motion.

Chairman Brown questioned the downside to the McAloney case. Discussion regarding the McAloney case and its relationship to these two cases were reviewed. Additionally, the length of time these cases take at DALA and the appeal process was discussed.

Commissioner McDonough amended his motion to include meeting with the AG to seek an opinion to expedite these cases. Commissioner Langan seconded the amended motion and the amended motion was adopted.

Commissioners were concerned with the way that the MRB Executive Director handled the retirement counseling options for several public employees. The Executive Director's colorful statement about putting the checks in the drawer was inappropriate, unprofessional, and he should apologize to the individuals. Mr. Sacco said that he would consult with him regarding the concerns of the Commission.

### **Legislative Update**

Mr. DeVito reported that the legislature is in session and that Senate President Stanley Rosenberg has appointed Senator James Timilty as the Senate Chair of the Joint Committee on Public Service. The House Chair of the Joint Committee on Public Service has not yet been named; however, the position may be announced within the next day or two.

### **Audit Update**

Mr. Tivnan reported that audits are currently occurring at the Boston, Hampden County, and Shrewsbury Retirement Boards. He stated that exit conferences are pending for the Quincy and Revere Retirement Boards. Internal reviews are being conducted on the Arlington, Leominster, Lowell, New Bedford, State, Teachers', and West Springfield Retirement Boards audit reports.

He stated that he is waiting for responses from the Blue Hills, Lynn, Mass Housing, Pittsfield, Stoneham, and Woburn Retirement Boards for their respective audits. Mr. Tivnan reported that Attleboro and Melrose Retirement Boards audit reports have been posted on the PERAC Web Page since the last Commission meeting and explained their respective findings. Finally, Mr. Tivnan reported that there have been no follow up audits since the last Commission meeting.

### **Compliance Update**

Mr. O'Donnell updated the Commission with the educational credits to date. He reported that all board members achieved their credits for the year and all are in good standing in accordance with the guidelines of C. 176. He also reported that the Statement of Financial Interests are due at PERAC on May 1, 2015. PERAC is currently receiving these forms daily along with the Annual Vendor Disclosure forms.

### **Executive Director's Report**

Mr. Connarton reported on staff activities since the last Commission meeting which is also outlined in memorandum in the packets.

Chairman Brown discussed the monthly Commission meeting dates with the Commissioners. It was decided that the Commission will meet on the second Wednesday of every month at 10:30 AM with the exception of the March 2015 meeting which will be held on March 18, 2015 at 2:00 PM. The new Commission meeting schedule will begin with the April 8, 2015 meeting at 10:30 AM.

Mr. Connarton recommended opening the Executive Session minutes dated February 25, 2013, September 23, 2013, April 16, 2014, and July 10, 2014. He also recommended that the minutes dated August 19, 2014, October 17, 2014 and January 22, 2015 remain closed as the publication of these minutes would defeat the reason for the Executive Sessions.

Commissioner McDonough moved to open the Executive Session minutes dated February 25, 2013, September 23, 2013, April 16, 2014, and July 10, 2014. He also recommended that the minutes dated August 19, 2014, October 17, 2014 and January 22, 2015 remain closed as the publication of these minutes would defeat the reason for the Executive Sessions. Commissioner Fontaine seconded the motion and it was unanimously adopted.

Chairman Brown discussed the following membership changes to the following Sub-Committees:

- Commissioner McDonough will Chair the Audit/Fraud Sub-Committee with Commissioners Langan and Machado as members.
- Commissioner Fitzpatrick will Chair the Legislative Sub-Committee with Commissioners McDonough, Fontaine, and McCarthy as members.
- Commissioner Machado will Chair the Investment Sub-Committee with Commissioners Fontaine, McCarthy, and McDonough as members.

- And finally Chairman Brown will Chair the Administrative Sub-Committee with Commissioners McCarthy, McDonough, and Machado as members.

Chairman Brown then inquired whether there was a need for more Sub-Committee groups and the Commissioners were fine with the current structure therefore there is no need to add more.

Chairman Brown discussed the possibility of having several Commission meetings on the road as exposure for retirement systems to attend. Executive Director Connarton informed Chairman Brown that the idea failed in the past due to the lack of a quorum; however, he continued that we will schedule two meetings in other areas of Massachusetts for some flexibility for the boards to attend.

Mr. Connarton asked that all Commissioners please acknowledge receipt of the Conflict of Interest. He then notified the Commission PERAC is seeking a field auditor which is posted on the Web site and is included in the package.

#### **Commission Travel**

Mr. Connarton informed the Commission of the upcoming conference sponsored by NCPERS. Commissioner McDonough moved to allow members to attend. Commissioner Langan discussed his opposition to approve travel at this time due to the current fiscal budget crisis. Commissioner Machado seconded the vote and the vote carried with Commissioner Langan in opposition.

#### **Other Business**

Commissioner Machado made a motion to adjourn the meeting at 3:15 PM. Commissioner McDonough seconded the motion. The motion carried. Meeting adjourned.

#### **Commission Meeting Documents**

Commission Agenda for the meeting for February 25, 2015  
Commission Minutes for January 22, 2015

**Legal Update**

Correspondence to and from PERAC and the Malden Retirement Board regarding a temporary order

Correspondence to CRAB regarding: Boston Police Department v. Boston Retirement Board, Docket No. CR-11-397 (January 9, 2015),

**Legislative Update**

Monthly Legislative Agenda and bullet points outlining legislation

Letter and Legislation sent to Senate Clerk Welch and House Clerk James regarding PERAC's 2015 Legislative recommendation

**Audit Update**

Recent PERAC Audit Findings cover sheet and the respective audit findings

**Executive Director's Report**

Updated Staff Activities Memo

Draft Commission meeting schedule for 2015

Correspondence regarding Executive Session minutes

**Commission Travel**

Information regarding NCPERS Annual Conference, May 3 – 7, 2015, New Orleans, LA

**Other Documents**

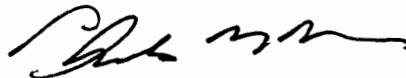
Memo regarding the Conflict of Interest Law

Job description for PERAC Field Auditor position

**Distributed at Meeting**

Memo addressed to the Commissioners regarding the Malden Retirement Board situation

Approved:



Philip Y. Brown, Chairman  
Public Employee Retirement  
Administration Commission